

**INITIAL STATEMENT OF REASONS**  
**BUSINESS PARTNER AUTOMATION (BPA) PROGRAM**

TITLE 13, ARTICLE 3.6.

Sections 225.00, 225.03, 225.06, 225.09, 225.12, 225.15, 225.18, 225.21, 225.24, 225.27,  
225.30, 225.33, 225.36, 225.39, 225.42, 225.45, 225.48, 225.51, 225.54, 225.57, 225.60,  
225.63, 225.66, 225.69 and 225.72

Historically, the Department of Motor Vehicles has been the public's sole provider of the collection of fees and issuing of documents and indicia for vehicle registration. The public's heightened expectations and demand for service combined with the increased economic constraints on state resources has prompted an exploration of alternative strategies to enhance the delivery of services to our customers. The development of public/private partnerships was identified in the department's Strategic Business Plan in January 1997 as a viable alternative. To implement the program, the department supported legislation authorizing the establishment of the Business Partner Automation (BPA) Program.

The Business Partner Automation (BPA) Program was established with the passing of SB46 (Chapter 127, Statutes 2001, Polanco). The bill authorized the department to establish business partner relationships with private sector businesses for the purpose of completing vehicle registration and titling transactions. The concept was identified in the Governor's 1999/2000 budget as "innovative" as it will improve and expand the level of service provided to the department's widely distributed and numerous customers with existing and projected shrinking resources without increasing wait times in the local field offices. Statute mandated that a newly authorized partnership required a formalized contract between a business partner and the department, as well as regulations.

Vehicle Code section 1685(a) authorizes the department to contract with private industry partners to electronically process and update to the department's vehicle registration database vehicle registration and titling transactions. The department then bills and collects payment electronically the fees for the processed transactions the next day. Vehicle Code section 1685(b)(1)(A) through (C) identifies and defines the types of business partners allowed in the program. Vehicle Code section 1685(b)(2) identifies the minimum requirements in the contract, including the filing of an application, payment of a fee, background check and posting of a surety bond. Vehicle Code section 1685(b)(3) requires the department to establish any additional requirements to safeguard privacy and protect the release of information. Vehicle Code section 1685(c) allows the Director of the Department of Motor Vehicles to set a maximum amount that the business partner may charge its customers to provide the services authorized in this statute. Vehicle Code section 1685(f) requires the department to develop regulations and procedures to provide oversight and to monitor the program for the protection of all vehicle owners from the improper use of the department's records. This statute also requires regulations for review and audit, and provides protection of confidential records.

The proposed regulations were developed to implement and make specific the statute establishing the BPA Program. The department proposes to adopt Sections 225.00, 225.03, 225.06, 225.09, 225.12, 225.15, 225.18, 225.21, 225.24, 225.27, 225.30, 225.33, 225.36, 225.39, 225.42, 225.45, 225.48, 225.51, 225.54, 225.57, 225.60, 225.63, 225.66,

225.69 and 225.72 to implement and make specific the requirements for business partners to participate in the BPA Program.

**§225.00. Business Partner Definitions.**

Section 225.00 will define terms to be used in Sections 225.00 through 225.72 of these regulations. The definitions are necessary to clarify the terms used in statute, these regulations and on the BPA forms and how they apply to the BPA program terminology.

Subdivision (a) defines the acronym “BPA” to mean the Business Partner Automation Program. This subdivision specifies terminology so the business partners and potential business partners understand precisely when and how the term applies.

Subdivision (b) defines the term “BPA contract” as the agreement specified in Section 1685 of the Vehicle Code that establishes contracts between a business partner and the department. This is necessary to identify specific parameters of the contract for a business partner, potential business partners and the department.

Subdivision (c) defines the term “accountable inventory” to identify what items are held in the department’s inventory that apply to the BPA and how the inventory items are recognized. It is necessary to recognize the importance of these items. The items are also identified as belonging to the department even when under the control of a business partner. This is to inform a business partner and future business partners that these inventory items, even inventory under the control of a business partner, are still proprietary to the department.

Subdivision (d) defines the term “controlled inventory” to identify what items are held in the department’s inventory that apply to the BPA and how the items are recognized. It is necessary to recognize the importance of these items. This is to inform the business partner and future business partners that inventory items, even inventory under the control of a business partner, are still proprietary to the department.

Subdivision (e) defines a “first-line business partner,” “first-line service provider” and “second-line business partner” as qualified private industry partners authorized in Vehicle Code section 1685. In addition, subdivision (e) requires a business partner that acts as a registration service to comply with the statutes that govern registration services. This is necessary to provide clarification as to who specifically qualifies for the statutorily mandated program.

Subdivision (f) defines the term “interface,” restricting it to the narrow definition of electronic exchange of information. This is necessary to so the business partners and the department understands how the term applies.

Subdivision (g) defines the term “change in legal structure” to clarify for a business partner and potential business partners what changes in their business would require notification to the department. This is necessary to inform business partners and potential business partners of the application and contract requirements. This is also necessary to prevent business partners from circumventing all or part of one or more background checks as required from BPA owners. This ensures compliance with the statutory mandate of Section 1685(f) of the Vehicle Code to provide oversight and monitoring of the business partners.

Subdivision (h) defines “owner” to clarify for business partners and potential business partners which business partner owners require background checks. This is necessary for the department to comply with the statutory mandate of Section 1685(f) of the Vehicle Code to provide oversight and monitoring of the business partners.

### **§225.03. Application Requirements.**

This section identifies the initial application requirements. Section 1685(a)(2)(A) of the Vehicle Code requires an application form. Subdivision (a) of this section requires a business partner applicant to submit an application appropriate to the type of business partner identified in subdivisions (b)(1) through (3) of Vehicle Code section 1685. This subdivision informs the applicants that each type of business partner has a separate and distinct application. This is necessary so that an applicant applies for and completes the application for the appropriate type of business partner.

Subdivision (a)(1) requires a first-line business partner to complete and sign a Business Partner Automation Application, First-Line Business Partner, REG 4024 (NEW 7/2002). This subdivision identifies the application form for a first-line business partner by name and form number. This is necessary so that an applicant applies for and completes the application for the appropriate type of business partner.

Subdivision (a)(2) requires a first-line service provider to complete and sign a Business Partner Automation Application, First-line Service Provider, REG 4023 (NEW 7/2002). This subdivision identifies the application form for a first-line service provider by name and form number. This is necessary so that an applicant applies for and completes the application for the appropriate type of business partner.

Subdivision (a)(3) requires a second-line business partner to complete and sign a Business Partner Automation Application, Second-line Business Partner, REG 4025 (NEW 3/2002). This subdivision identifies the application form for a second-line business partner by name and form number. This is necessary so that an applicant applies for and completes the application for the appropriate type of business partner.

Subdivision (a)(4) incorporates the application forms identified in subdivisions (a)(1) through (3) by reference in the regulations. The forms are incorporated by reference as they are information intensive and would be better understood on their own, rather than placed in the regulations. The forms are available on the department’s website, and by US mail or email. The application forms used by each type of business partner are specified to ensure all the required information is complete prior to approval, execution of the contract and issuance of the permit. The specific purpose and rational basis of each form is discussed below.

Subdivision (a)(5) requires that each business partner owner is to be identified on the application form. This is necessary to ensure that the department has the necessary information to prevent an owner(s) from circumventing a background check(s) as mandated by Section 1685(b)(2)(B) of the Vehicle Code.

#### *First-line Business Partner Application Form:*

The first-line business partner application requires a business partner to include the “Doing Business As” (DBA) name of the first-line business partner, if applicable.

This is required to inform the department of the identity of the business applying to partnership with the department in the BPA. The department will review the DBA name for compliance with Vehicle Code section 25 that prohibits a business partner from displaying, causing or permitting a sign, mark or advertisement indicating an official connection with either the Department of Motor Vehicles or the Department of the California Highway Patrol. Partnerships, companies, and corporations will have subsidiaries with separate names that are separate entities even though the same partnership, company, or corporation owns them. (See Section III.) The street address, city, state and zip code of the applicant are necessary to locate the business for audit purposes and to verify the legitimacy of the applicant as a potential business partner. The internet/email address is requested, if applicable. A review of the website is included in an audit review to verify that the department's advertising guidelines as addressed in the contract have been met. The email address allows the department a quick, economical, and efficient method of communication with the applicant or business partner. The days and hours of operation are required for audit purposes.

Section II identifies the type of ownership of a business partner applicant and is required to determine when Section III and the IRS Federal Tax ID number are required. The IRS Federal Tax ID number is also a check to verify the true identity of the applicant. The name of the owner/corporation name as filed with the Secretary of State is required to identify the true identity of the applicant. The street address, city, state and zip code of the owner/corporation are required to identify the business location and facilitate communication. The office telephone number and FAX number are required to facilitate communication with the applicant.

Section IV identifies the official contact person for the potential permit site who is the authorized designee of the business partner. The name, business address, telephone, and FAX numbers are required to locate and identify the contact person. Section V is required if the site location is out-of-state. An agent, located in California, is required to handle service of process for a business partner that is located out-of-state. This informs the business partners and potential business partners about non-resident obligations and responsibilities in California.

Section VI requires an applicant to indicate a numeric number of expected transactions that will be processed yearly. This is necessary to determine the amount of inventory a business partner may need on-site. As a business partner is restricted to a three-month supply of inventory, the type and volume of transactions informs a business partner and the department of the expected inventory items and their volumes that will be needed for the site operations.

Section VII requires an applicant to identify other business relationships with the department, such as a licensed registration service (provide the Occupational License number) or a licensed vehicle dealer (provide the Occupational License number). This information provides the department with a business history that indicates a business partner's propensity to follow the mandates of Section 1685 (b)(2)(B) of the Vehicle Code.

Section VIII requires the names of employees who will process the vehicle registration renewal and titling documents. This is required to maintain a background check database and match the Statement of Personal History form with the correct business partner or business partner applicant. This is necessary to

process the background checks pursuant to Section 1685(b)(2)(B) of the Vehicle Code.

Section IX is required only when a business partner processes new vehicle reports of sale forms and the business partner is not a licensed California dealer. Because the new vehicle reports of sale forms are original registration transactions, and must be completed and signed by a licensed California dealer, the appropriate dealer information is required. The dealer number, name, telephone number and street address information is required to verify the integrity of the documents being added to the department's vehicle registration database, and to hold the dealer accountable for the integrity of the documents. Section X on the form lists the physical location where inventory is stored and maintained. This information is necessary for audit purposes.

Section XI is the standard departmental certification. It requires the city, county, and state where the certification is signed, along with the date. The written signature, the printed name and job title of the authorized agent of a business partner applicant along with the name of the applicant and the work telephone where the authorized agent can be reached are also required. This information is required and necessary to authenticate the certification and identify the person signing for a business partner applicant should the application be questioned. The certification is signed under the penalty of perjury under the laws of the State of California that the information given is true and correct. The signer is therefore acknowledging the consequences of making false statements and understands the importance of furnishing correct information. The signature of the person signing the application and the date that it is signed is necessary to establish a legal basis for holding the applicant accountable for the information provided.

The second page of the application (back of application form) is divided into two sections. The first requires the identification of the officers, partners, stockholders and directors who participate in the direction, control and management of the business partner. The information required for each person includes the person's name, the appropriate box marked indicating the title of the person and the effective date of his/her involvement with the BPA. The second section of the application requires identification of limited liability company member(s) who participate in the direction, control and management of the business partner. The information required to identify the LLC member is the name and the effective date of his/her involvement with the BPA. A standard departmental certification at the bottom of the page guarantees that the person authorized to sign the form has completed and/or reviewed the complete document.

\*\*\*\*\*

#### *First-Line Service Provider Application Form:*

The first-line service provider application is similar to the first-line business partner application. Sections I, II and III remain the same and are required for the same reasons. Section IV is the same as the first-line business partner application form but is called Project Contact rather than Contact Person. The information required is the same as the Contact Person section and is also needed for the same reasons.

Section V identifies the person authorized to sign the contract. The information required is the printed first, middle, and last name, along with the person's job title. This information is necessary to identify the person authorized to sign the contract. Section VI and VII are the same as the first-line business partner application form

and are required for the same reasons. Section VIII requires the estimated number of second-line business partners who will use the first-line service provider to interface with the department.

Section IX requires the physical location where a business partner applicant will electronically interface with the department, and where the actual information technology (IT) hardware will reside. This is necessary to determine if a business partner applicant has met the IT security requirements as stated in these regulations and in the BPA contract, and to insure that the applicant is a viable applicant. Section X is the standard departmental certification used on the three application forms. The information remains the same and the reasons for the information remains the same.

The second page of the application (back of the application form) is the same as the first-line business partner application and the requirements are the same.

\*\*\*\*\*

*Second-line Business Partner Application Form:*

The second-line business partner application is similar to the first-line business partner application. Sections I, II, III, IV, V, VI, VII, VIII, XI, X, and XI are the same as the first-line business partner application form and are required for the same reasons. The second (back of the application form) page of the application is the same as the first-line business partner application and the requirements are the same.

\*\*\*\*\*

Subdivision (b) requires a business partner applicant to pay a nonrefundable application fee of three hundred and twenty-four dollars (\$324) for its principal place of business and one hundred and thirty dollars (\$130) for each additional site included with the application. This fee or fees must be paid at the time the application is submitted to the BPA Program Administrator. The purpose of this subdivision is to inform applicants that a fee is required when applying and that the fee will not be returned should the applicant be disapproved or the application withdrawn. The fee is required to cover the cost of reviewing the various documents, including the Statement of Personal History and the FBI and/or DOJ fingerprint responses of the applicants, the initial security compliance audit, tabulation and compilation of a database based on information from the background checks, development of a contract, and review of the audit findings. There is no other way to recover the department's costs associated with these tasks. An application fee is mandated in Section 1685(b)(2)(A) of the Vehicle Code. Subdivision (b) informs an applicant when the fee must be paid and where to submit the application fee. This is necessary to ensure the application and fee, when submitted to the department, are handled within the guidelines established in these regulations.

Section (b)(1) informs a business partner applicant that an application is valid for one year starting from the date it is first received by the department and requires an applicant to reapply if the application requirements in Section 225.03 are not fulfilled within the one year. It is necessary to limit the time an incomplete application must be held by the department waiting for a business partner applicant to complete the application or contract requirements.

Subdivision (c) requires a business partner applicant to provide written evidence of compliance with security specifications listed in the BPA Program Information Security

Pre-Implementation Checklist for First-line Business Partner and First-Line Service Provider form, INV5555A (NEW 11/02) or the BPA Program Information Security Pre-Implementation Checklist for Second-line Business Partner form, INV5555B (NEW 11/02) and in the BPA contract. These forms list the various information technologies, physical security issues and auditing requirements that applicants of the different types of business partner must address and comply with before becoming a business partner. This is necessary to comply with the privacy and security requirements pursuant to Section 1685(b)(3) of the Vehicle Code and auditing requirements in Section 1685(f) of the Vehicle Code.

Subdivision (d) requires a business partner applicant to submit a photocopy of a completed and signed Request for Live Scan Service form, DMV8016 (Rev. 11/2001) in accordance with Section 225.06 of these regulations and a Statement of Personal History form, REG4019 (Rev. 11/02) for each business partner owners and employee. The Request for Live Scan Service form, DMV8016 (Rev. 11/2001) is discussed in Section 225.06 of these regulations. The Statement of Personal History form, REG4019 (Rev. 11/02) is incorporated by reference in the regulation. The business partner must comply with this requirement for the owners and employees. This subdivision is necessary to comply with Vehicle Code section 1685(b)(2)(B) and to inform the applicant and its employees of the specific forms required by the department to comply with the law.

Also, subdivision (d) identifies who is to complete and sign the Statement of Personal History and fingerprints. They include: owners, managers, and administrative staff responsible for the oversight of the program or who manage, administer, supervise, or monitor transactions, inventory, employees, or money; order or account for inventory; and employees who process vehicle registration transactions or work directly with customers. It is necessary to require all non-departmental persons involved with BPA to provide evidence of good character, honesty, integrity and good reputation pursuant to Section 1685(b)(2)(B) of the Vehicle Code. Background checks on owners and employees are a means to ensure the privacy and security of the information contained in our databases and minimize theft and fraud.

#### *Statement of Personal History Form*

Vehicle Code section 1685(b)(2)(B) requires the department to perform personal background checks on potential business partners. The Statement of Personal History form, REG4019 (Rev. 11/02) was developed to comply with that requirement by providing the information needed to submit to law enforcement for a check against their databases.

The first page requires the date that the form was completed. This is required and necessary to determine that the information was provided in a timely manner. As both owners and employees use this form, the person completing the form is required to indicate that he/she is an owner or employee to identify his/her role in the business. In addition, the first page requires the person's true, full name (first, middle, last and suffix, if applicable), residence address including number, street, city, county, state and zip code and social security number. This information is required to identify the person applying to participate in the BPA. The person's work and home telephone numbers are required to facilitate communication with the individual to accurately interpret the background check should any questions arise.

Part 2 requires the applicant's birth date, sex, hair color, eye color, height, and weight. This information is required to properly identify the owner or employee completing the form and provide an accurate background check by matching the person's physical characteristics against the law enforcement databases.

Two questions are also asked in Part 2. The person is asked if he/she holds a valid California driver license or identification card and if yes, the number must be entered on the form. This information is needed to provide an accurate match to the law enforcement databases. The second question asks if he/she has used another name other than the one appearing on the form and if the person has another way of signing his/her name. If yes, the other name is required. This information is required to accurately match with all possible identifiers in the law enforcement databases.

In Part 3, the owner/employee is required to provide information about his/her employment for the last three years. Three years was selected to provide an adequate record of work history and length of time to identify work patterns concerning a person's character, honesty, integrity and reputation as mandated in Section 1685(b)(2)(B) of the Vehicle Code. The information required is: date employment started and ended, job title/classification, hours per week, total years and months worked, salary earned, name of company or state agency and street address where employed, the duties performed on the job, and the reason for leaving. This information is required to verify employment, spot discrepancies and work breaks, and review following the guidelines set in the Occupational Licensing and Disciplinary Guidelines. This information is necessary to determine the owner's/employee's eligibility to participate in the BPA Program based on the intent of Section 1685(b)(2)(B) of the Vehicle Code.

Page 4 of the form contains Parts 4 through 7 that are "yes" and "no" questions. Part 4(a) asks the owner/ employee if he/she has ever previously been, or is now currently licensed or has ever applied to the department for an occupation license, or a commercial requester code. If the answer is yes, the license or requester code number is required. This information is required to determine if a business partner has a pattern of work history that would influence the determination decision. This information is necessary to determine the owner's/employee's eligibility to participate in the BPA based on the intent of Section 1685(b)(2)(B) of the Vehicle Code.

Part 4(b) asks the owner/employee if a business or occupational license or license application has been refused, revoked, suspended or subject to disciplinary action or if he/she was ever a partner, managerial employee, officer, director or stockholder in a firm licensed by the department and that license was revoked, suspended or subject to other disciplinary action. If the answer is yes, the license number, type of license, action by the department, and date of action are required. This information is required to review for consideration under the Occupational Licensing and Disciplinary Guidelines. This information is necessary to determine the owner's/employee's eligibility to participate in the BPA based on the intent of Section 1685(b)(2)(B) of the Vehicle Code.

Part 4(c) asks the owner/employee if an occupational license issued by another state, authorizing the same or similar activities as the California occupational license is held and if that out-of-state license was revoked, suspended for cause and never reissued, or suspended for cause and the terms of suspension have not been fulfilled. If the answer is yes, the license number, type of license, and the state that issued the license are required. This information is required to review for consideration under the Occupational Licensing and Disciplinary Guidelines. This information is



necessary to determine the owner's/employee's eligibility to participate in the BPA based on the intent of Section 1685(b)(2)(B) of the Vehicle Code.

Part 5 asks the owner/employee if any criminal charges are currently pending in state or federal court. If the answer is yes, the court, case number and the nature of the charges are required. This information is required to review for consideration under the Occupational Licensing and Disciplinary Guidelines. This information is necessary to determine the owner's/employee's eligibility to participate in the BPA based on the intent of Section 1685(b)(2)(B) of the Vehicle Code.

Part 6 asks a series of questions related to the applicant's last three years of work history. If any of the questions are answered yes, the owner/employee is required to provide further details on a separate piece of paper. Part 6(a) asks if the owner/employee has been dismissed, fired, demoted, had his/her salary or compensation reduced for cause or had any other adverse action taken against him or her. Part 6(b) asks if the owner/employee has resigned from or quit a position while under investigation or after being informed that discipline would be taken, or during an appeal from a disciplinary action.

Part 6(c) asks if the owner/employee has been rejected or told that permanent employment would not occur or continued employment would end for cause during any type of probationary or trial period on the job. Part 6(d) asks if the owner/employee has been terminated, demoted or had other adverse action involving any civil or administrative case and, if yes, to indicate the state court or agency and case number. This information is required to review for consideration under the Occupational Licensing and Disciplinary Guidelines. This information is necessary to determine the owner's/employee's eligibility to participate in the BPA based on the intent of Section 1685(b)(2)(B) of the Vehicle Code.

Part 7 asks if the owner/employee has been convicted, placed on probation, or released from incarceration following conviction of any crime or offense, either felony or misdemeanor, in any federal or state jurisdiction within the last 10 years, except for traffic offenses. This information is necessary to review for consideration under the Occupational Licensing and Disciplinary Guidelines. This information is required and necessary to determine the owner's/employee's eligibility to participate in the BPA based on the intent of Section 1685(b)(2)(B) of the Vehicle Code.

Page 5 has a boxed declaration that the applicant initials. The initials indicate that the owner/employee has read the declaration stating that all convictions must be disclosed and a copy of the arresting agency report and a certified copy of the court documents are required to be included with this form. The middle of page 5 provides space for the owner/employee to list the information required in the boxed declaration. The information required includes: conviction date, what he/she was convicted of, the court of jurisdiction (full name and address), and the disposition of the offense (amount fined, term of probation, jail or prison term and date released). This information is required to review for consideration under the Occupational Licensing and Disciplinary Guidelines. This information is necessary to determine the owner's/employee's eligibility to participate in the BPA based on the intent of Section 1685(b)(2)(B) of the Vehicle Code.

The bottom of page 5 contains the certification by the owner/employee completing the form. The certification is under penalty of perjury under the laws of the State of California to encourage the owner/employee to be truthful. The certification is intended to legally bind the signer as to the accuracy of the information provided

and emphasize the seriousness of knowingly falsifying information. It also allows the department to follow a prescribed legal course of action should perjury be committed, and establishes a legal basis for holding the applicant accountable for the information provided.

The last part of page 5 is the business partner's acknowledgement. This part is required when an employee has completed the Statement of Personal History. It requires a business partner to certify that the person acknowledging is an authorized representative of the business partner that intends to employ the person completing the form in the operation of the BPA upon departmental approval. This certification is necessary to verify that a business partner applicant is seriously considering hiring this person or redirecting a person already hired by the business partner and to inform or remind a business partner applicant or potential business partner that the employee is not eligible until he/she is approved by the department.

\*\*\*\*\*

Subdivision (d)(1) requires an applicant located out-of-state or with branches located out-of-state to provide fingerprints for each owner or employee on a Fingerprint Card form, ADM1316 (Rev. 1/97) or a Request for Live Scan Service form. Although the Request for Live Scan Service form is used throughout California, it is not used in all states. This alternative process was provided to out-of-state business partner owners and employees as an efficient means to accomplish the same result as the Request for Live Scan Service form. This alternative process is also accepted by DOJ, who in turn forwards the information to the FBI. This is necessary to allow out-of-state owners and employees to have the same access as the business partner owners and employees that are located in California. As with owners and employees located in California, background checks on out-of-state business partner owners and employees are a means to ensure the privacy and security of the information contained in our databases, ensure accountability of inventory and compliance with Section 1685(b)(2)(B) of the Vehicle Code.

Subdivision (d)(1)(A) requires an applicant located out-of-state to submit the Fingerprint Card form, ADM1316 (Rev. 1/97) to local law enforcement. The local law enforcement will complete the form, process for fingerprints, and sign and identify the law enforcement agency. The form will be returned to the business partner owner or employee, who will submit the form to the BPA Program Administrator. This process ensures that the person being fingerprinted is a BPA employee and thus reduces the possibility of fraud.

Subdivision (d)(1)(B) requires a business partner owner and employee located at an out-of-state site to send the completed fingerprint form, along with a copy of the receipt from local law enforcement for processing the form, ADM1316, with a photocopy of the person's valid driver license or identification card issued by the state where the site is located, a completed and signed Personal History Statement form, REG4019 (Rev. 11/2002), and the monetary amount authorized (\$42) in Penal Code section 11105(e) for each DOJ fingerprint check and \$24 for the FBI fingerprint check to the BPA Program Administrator. The FBI and DOJ fee amounts are listed separately in the regulations in case the total fee is not collected because of FBI and/or DOJ agency guidelines. This process is the most efficient and ensures that the person fingerprinted is a BPA employee and thus reduces the possibility of fraud.

Subdivision (e) allows an exemption from the fingerprint process for a business partner owner who is currently an occupational licensee of the department, and whose

fingerprints have already been submitted to the department. This exception will avoid duplication of the fingerprint process as an occupational licensee has already been fingerprinted and submitted to the department.

Subdivision (f) requires evidence of compliance with Section 225.09 of these regulations to be submitted to the BPA Program Administrator. This is necessary to ensure that a business partner applicant is financially capable of reimbursing the department for damages caused to the department or to a third party that may file suit against a business partner and the department, regarding a business partner's operation of the BPA.

Subdivision (g) requires business partner applicants to complete, sign and submit the Information Security and Disclosure Statement (Firm) form, EXEC201X (NEW 2/96). This form is incorporated by reference. In the first part of the form, a business partner is required to complete the spaces indicating the name of the business partner, address and telephone number. This information is required to identify the business partner that will eventually sign this form. The next part informs a business partner of their responsibilities regarding personal, confidential and restricted information that the department obtains from the public. The last part of the form requires a business partner to sign under penalty of perjury under the laws of the State of California. The last part of the form requires the printed name of the firm, the printed name of the firm representative, with title and signature; the city, county, state where the form was signed; and the date when the form was signed. This information and signatures are necessary to identify the person signing for a business partner. The signatures make the form legally binding and allow the department to follow a prescribed legal course of action. In addition the city, state, and date that the document is signed are required for the signature to be legally binding.

Subdivision (h) requires business partners with site locations out-of-state to maintain an office in California or designate a registered agent within California for service of process. This is necessary to allow subpoenas to be served for lawsuits filed in California.

Subdivision (h)(1) informs business partners that the identification of a registered agent is to be provided to the BPA Program Administrator on the application form. This is necessary to inform the business partners that the information is to be provided at the start of the initial application process.

Subdivision (i) informs business partners of the time frame to determine the completeness of an application package and identify for the business partners the application process the contract will be entered into. This subdivision is necessary to comply with the provisions of the Permit Reform Act of 1981, Government Code sections 15374-15378.

#### **§225.06. Fingerprints.**

Subdivision (a) requires a business partner to submit fingerprints for business partner owners and employees located in California to a Live Scan facility for each person who qualifies in Section 225.03 (d) of these regulations. A copy of the Request for Live Scan Service, form DMV8016 (Rev. 11/2001) must be submitted prior to participating in the BPA. This is necessary to comply with the background checks mandated by statute.

Subdivision (a)(1) provides that the Request for Live Scan Service form must contain the information set forth in subdivisions (a)(1)(A) through (a)(1)(K). This is required

to inform a business partners applicants and potential business partners of the information needed to complete the fingerprint form.

Subdivision (a)(1)(A) requires the typed or printed true, full name of the person fingerprinted. This information is required to ensure the identity the person being fingerprinted.

Subdivision (a)(1)(B) requires any aliases used by the person fingerprinted to be listed on the form. This information is required to provide adequate information to accurately match with all possible identifiers in the law enforcement databases.

Subdivision (a)(1)(C) requires the birth date of the person fingerprinted. This information is required to provide adequate information to accurately match with all possible identifiers in the law enforcement databases.

Subdivision (a)(1)(D) requires the birthplace of the person fingerprinted. This information is required to provide adequate information to accurately match with all possible identifiers in the law enforcement databases.

Subdivision (a)(1)(E) requires the sex, height, weight, eye color and hair color of the person fingerprinted. This information is required to provide adequate information to accurately match with all possible identifiers in the law enforcement databases.

Subdivision (a)(1)(F) requires the driver license or identification card number of the person fingerprinted and state of issue. This information is required to provide adequate information to accurately match with all possible identifiers in the law enforcement databases.

Subdivision (a)(1)(G) requires the social security number of the person fingerprinted. This information is required to provide adequate information to accurately match with all possible identifiers in the law enforcement databases.

Subdivision (a)(1)(H) requires the date the fingerprints are taken. This information is required to determine when the fingerprints were processed.

Subdivision (a)(1)(I) requires the signature of the person taking the fingerprints. This information is required to identify the signer to the fingerprints and legally hold the signer to the fingerprints provided.

Subdivision (a)(1)(J) requires a statement that the Request for Live Scan Service form, DMV8016 (Rev. 11/2001) shall be for the purpose of determining approval to participate in the BPA Program. This is necessary to inform business partners and business partner employees of the purpose of the form.

Subdivision (a)(1)(K) requires the home address and telephone number of the person fingerprinted. This information is necessary to contact the person providing the fingerprints, if necessary.

Subdivision (b) requires a business partner applicant to provide fingerprints for business partner owners and employees located out-of-state. Fingerprints must be submitted by each person listed in Section 225.03(d) of these regulations to any local law enforcement agency. A Fingerprint Card, form ADM1316 (Rev. 1/97) or the Request for Live Scan Service form, DMV8016 (Rev. 11/2001) shall be submitted prior to participating in the BPA Program. This is necessary as the Request for Live Scan Service is available nationwide and the Fingerprint Card is acceptable by out-of-state local law enforcement agencies. The DOJ and/or FBI will process the Fingerprint Card and Request for Live Scan Service forms to complete the fingerprint check.

Subdivision (b)(1) requires that the Fingerprint Card form contain the information set forth in subdivisions (b)(1)(A) through (b)(1)(P).

Subdivision (b)(1)(A) requires the true, full name of the person fingerprinted. This information is required to ensure the identity the person matches the fingerprints submitted on the form.

Subdivision (b)(1)(B) requires the signature of the person fingerprinted to be listed on the form. This is required to verify that the person submitting to the fingerprinting is actually the person indicated on the form.

Subdivision (b)(1)(C) requires the date the person is fingerprinted. This identifies when the fingerprinting process occurred.

Subdivision (b)(1)(D) requires the signature of the official at the local law enforcement agency taking the fingerprints. This signature is required to validate the legitimacy of the fingerprint process.

Subdivision (b)(1)(E) requires the name and address of the local law enforcement agency performing the fingerprinting. This is required to provide a means to verify the authenticity of the fingerprint process.

Subdivision (b)(1)(F) requires any aliases (AKA) of the person fingerprinted. This information is required to provide adequate information to accurately match with all possible identifiers in the law enforcement databases.

Subdivision (b)(1)(G) requires the driver license or state issued identification card number of the person fingerprinted. This information is required to provide additional information to accurately match with all possible identifiers in the law enforcement databases.

Subdivision (b)(1)(H) requires the sex, height, weight, eye color, and hair color of the person fingerprinted. This information is required to accurately match with identifiers in the law enforcement databases.

Subdivision (b)(1)(I) requires the birthplace of the person fingerprinted. This information is required to provide basic information to accurately match with identifiers in the law enforcement databases.

Subdivision (b)(1)(J) requires the date of birth of the person fingerprinted. This information is required to provide basic information to accurately match with identifiers in the law enforcement databases.

Subdivision (b)(1)(K) requires the social security number of the person fingerprinted. This information is required to provide adequate information to accurately match with all possible identifiers in the law enforcement databases.

Subdivision (b)(1)(L) requires the Occupational Licensing Branch box and "Other" box to be checked on the reverse side of the form, and the notation "BPA" added to explain why the "Other" box is checked. This information is required to route the form to the correct program when the form is mailed to the department.

Subdivision (b)(1)(M) requires the name of a business partner that is owned by or employs the person fingerprinted. This information is required to quickly and properly identify the employee of a business partner and allow the department to determine eligibility in a timely manner.

Subdivision (b)(1)(N) requires the street address and city of a business partner that that is owned by or employees the person fingerprinted. This information is required to quickly match the fingerprints to a business partner.

Subdivision (b)(1)(O) requires the position (title) in the business of the person fingerprinted. This information is required to identify the employee for a business partner.

Subdivision (b)(1)(P) requires the street address and city of the person fingerprinted. This is required to provide basic information about the person being fingerprinted to accurately match with all possible identifiers in the law enforcement databases.

#### **§225.09. Financial Security Requirements.**

Subdivision (a) requires a business partner to procure and file an acceptable method of financial security with the department for the term of the BPA contract plus three months. The two acceptable methods of financial security acceptable to the department are a surety bond or irrevocable letter of credit.

Subdivision (a)(1) requires the bond to be executed by an California admitted surety insurer on a Business Partner Surety Bond form, REG866 (Rev. 12/2002) and in an amount specified in and as the regulations. The bond form has been approved by the Attorney General's Office and has been adopted in 11 Cal, Code of Regs, Article 20, §51.19. This informs business partners and potential business partners of the criteria for securing a BPA bond. This is necessary to comply with Section 1685(b)(2)(C) of the Vehicle Code that requires a business partners to post a bond.

Subdivision (a)(2) requires the irrevocable letter of credit to be issued from a bank doing business in the State of California, and insured by the Federal Deposit Insurance Corporation with the State of California, Department of Motor Vehicles as the beneficiary. The letter of credit provides for the honoring of a draft or demand for payment presented with the department's written statement certifying that there has been a loss, damage or liability resulting from a business partners performance or non performance, and that the amount of the demand or draft is now due and payable. The letter of credit is to be automatically renewed for the length of the contract plus three months.

Subdivision (a)(1)(A) incorporates the Business Partner Automation Surety Bond form, REG866 (Rev. 12/2002) by reference in the regulations. The first section of the surety bond requires the name and business address for both the surety company and the principal. The amount of the bond depends on the type of business partner. A first-line business partner is required to have \$650,000 bond. A first-line business partner service provider is required to have a \$1,000,000 bond. A second-line business partner bond amount is based on the type of transaction processing, with new vehicle reports of sale requiring a \$100,000 bond and registration renewals requiring a \$16,000 bond. The blank spots in the *Conditions* part of the surety bond are required to include one of these predetermined amounts. These amounts were determined to adequately cover loss to the department.

The second page requires the printed or typed name of the principal and surety, and the signature of the principal and attorney-in-fact for the surety. The surety will also add its official seal to the document upon signing. This information, signatures and seal are necessary to identify the person signing for a business partner and surety company. The signatures and seal make the bond legally binding and allow the department to follow a prescribed legal course of action. In addition the city,

state, and date that the document is signed are required for the signature to be legally binding.

Subdivision (b) lists the monetary amounts for each type of business partner. Subdivision (b)(1) list the amount for first-line business partner and a first-line service provider as \$650,000 and subdivision (b)(2) differentiates the amount based on the type of transaction processing for second-line business partners, with new vehicle reports of sale requiring \$100,000 and registration renewal transactions requiring \$16,000. These amounts were determined to adequately cover loss to the department.

#### **§225.12. Business Partner Contract.**

Subdivision (a) requires an applicant to sign a BPA contract prepared on a State of California Standard Agreement form, STD213 (NEW 02/98), and executed in accordance with the Department of General Services requirements and the State Contracting Manual. This requirement is necessary to implement, interpret or make specific the provisions of Vehicle Code section 1685, which authorizes the department to establish contracts and enter into contractual agreements with qualified private industry partners. The contracts are established in accordance with Government Code standards under Section 19130, et seq. for the use of personal services contracts. Government Code section 14615.1 exempts actions taken by the Department of General Services in connection with its duties under Part 2 of Division 2 of the Public Contracts Code, including the contract and the contract form from the Administrative Procedure Act; therefore, the contract may be referenced but not specifically identified in these regulations.

Subdivision (b) informs a business partner applicant that a BPA contract is valid for 36 months and cannot be renewed. A new application and contract will be required with each permit term. A business partner applicant is informed that prior to starting a new application and contract, the audit requirements from the second audit report, including any findings and recommendations, is to be completed. This is necessary to meet the department's mandate to ensure adequate oversight and monitoring of business partners as required in Section 1685 of the Vehicle Code.

Subdivision (c) provides that if any provision of the contract, statute or regulations is deemed illegal or unenforceable, all remaining provisions of the contract, statutes, and regulations shall remain in effect. This is necessary to inform business partner applicants that the program remains in force should any one portion of the program be deemed unenforceable.

#### **§225.15. BPA Permit Authority.**

Subdivision (a) informs business partners when a business partner has authority to function as a BPA business partner. This clarifies the importance of the contract and its relevance to the program.

Subdivision (b) provides that a business partner permit shall be issued to each first-line business partner, first-line service provider and second-line business partner as defined in subdivisions (b)(1)(A) through (C) of Vehicle Code section 1685 for each site. This subdivision is necessary to clarify that all three type of business partner shall receive a permit for each site location when approved to participate in the BPA program.

Subdivision (b) also establishes when a permit is to be issued and that the permit identifies the business as an authorized business partner. This is necessary to identify the importance of the permit and when it is issued.

Subdivision (c) identifies the permit by name and form number, and requires a business partner to display its BPA permit in view of its customers. This informs a business partner of its responsibility to inform its customers of the business partner's relationship with the department.

**§225.18. Cause for Refusal to Enter into a Contract and Issue a Permit.**

Subdivision (a) informs business partner applicants that the department may refuse to enter into a contract when an applicant has not demonstrated honesty, integrity, good character and reputation as required by statute. This is necessary for the department to comply with the statutory mandate of Section 1685(f) of the Vehicle Code to provide oversight and monitor business partners and Section 1685(b)(3) of the Vehicle Code to safeguard privacy and protect the information in the department's vehicle registration database.

Subdivision (b) informs business partner applicants that the department may refuse to enter into a contract when an applicant through the actions of the business partner's owners and/or employees has not demonstrated honesty, integrity, good character and reputation as required by statute. This is necessary for the department to comply with the statutory mandate of Section 1685(f) of the Vehicle Code to provide oversight and monitor business partners and Section 1685(b)(3) of the Vehicle Code to safeguard privacy and protect the information in the department's vehicle registration database.

Subdivision (c) provides that information on a Statement of Personal History form and the message from the FBI and/or DOJ in response to a fingerprint check or other information obtained by the department shall be the basis for approval or disapproval of a business partner owner and employee(s) in meeting the standards of honesty, integrity, good character and reputation as stated in Section 1685(b)(2)(B) of Vehicle Code to participate in the BPA. The "other information" would include but not be limited to: complaints, status of other business relationships with the department, and news media documentation. This is provided to inform business partners and potential business partners of the continuous background check process after the forms are submitted to the department. This is necessary for the department to comply with the statutory mandate of Section 1685(f) of the Vehicle Code to provide oversight and monitor business partners and Section 1685(b)(3) of the Vehicle Code to safeguard privacy and protect the information in the department's vehicle registration database.

Subdivision (d) informs a business partner applicant that the department may refuse to enter into a contract for specific conduct by a business partner applicant, one of its owners or one of its employees. A list of conditions that indicate a lack of honesty, integrity, good character and reputation follow this subdivision. This is necessary for the department to comply with the statutory mandate of Section 1685(f) of the Vehicle Code to provide oversight and monitor business partners and Section 1685(b)(3) of the Vehicle Code to safeguard privacy and protect the information in the department's vehicle registration database.

Subdivision (d)(1) informs a business partner applicant that the department may refuse to enter into a contract when the business partner, one of its owners or one of its employees has been convicted of a felony or a crime, or committed an act or engaged in conduct involving moral turpitude that is substantially related to the function of a BPA business partner. This is necessary for the department to comply



with the statutory mandate of Section 1685(f) of the Vehicle Code to provide oversight and monitor business partners.

Subdivision (d)(2) informs a business partner applicant that the department may refuse to enter into a contract when a business partner, one of its owners or one of its employees is or has been the holder of an occupational license issued by the department that has been suspended or revoked. This is necessary for the department to comply with the statutory mandate of Section 1685(f) of the Vehicle Code to provide oversight and monitor business partners.

Subdivision (d)(3) informs a business partner applicant that the department may refuse to enter into a contract when a business partner, one of its owners or one of its employees is or has been a managerial employee of any occupational licensee licensed by that department that has been suspended or revoked. This is necessary for the department to comply with the statutory mandate of Section 1685(f) of the Vehicle Code to provide oversight and monitor business partners.

Subdivision (d)(4) informs a business partner applicant that the department may refuse to enter into a contract when a business partner, one of its owners or one of its employees is or has been a commercial requestor or one of its owners that has been suspended or revoked. This is necessary for the department to comply with the statutory mandate of Section 1685(f) of the Vehicle Code to provide oversight and monitor business partners.

Subdivision (d)(5) informs a business partner applicant that the department may refuse to enter into a contract when a business partner, one of its owners or one of its employees is or has failed to comply with its BPA contract or failed to complete any of the audit requirements of Section 225.63 of these regulations. This is necessary for the department to comply with the statutory mandate of Section 1685(f) of the Vehicle Code to provide oversight and monitor business partners.

Subdivision (d)(6) informs a business partner applicant that the department may refuse to enter into a contract when a business partner, one of its owners or one of its employees has used a false name, made any false statement, or concealed any material fact in the BPA application or on the statement of personal history. This is necessary for the department to comply with the statutory mandate of Section 1685(f) of the Vehicle Code to provide oversight and monitor business partners.

Subdivision (d)(7) informs a business partner applicant that the department may refuse to enter into a contract when a business partner applicant, one of its owners or one of its employees uses misleading advertising that suggest that the business partner is a part of the department and that violates Section 25 of the Vehicle Code. This is necessary for the department to comply with the statutory mandate of Section 1685(f) of the Vehicle Code to provide oversight and monitor business partners.

Subdivision (d)(8) informs a business partner applicant that the department may refuse to enter into a contract when a business partner applicant, one of its owners or one of its employees has permitted fraud, or engaged in fraudulent practices or acts, with reference to clients, members of the public or the department. This is necessary for the department to comply with the statutory mandate of Section 1685(f) of the Vehicle Code to provide oversight and monitor business partners.

Subdivision (d)(9) informs a business partner applicant that the department may refuse to enter into a contract when a business partner applicant, one of its owners

or one of its employees has committed or was responsible for any other act, occurrence, or event in California or any foreign jurisdiction that provides cause for refusal to issue a permit. This is necessary for the department to comply with the statutory mandate of Section 1685(f) of the Vehicle Code to provide oversight and monitor business partners.

Subdivision (d)(10) informs a business partner applicant that the department may refuse to enter into a contract when a business partner, one of its owners or one of its employees has failed to comply with these regulations, the Vehicle Code's information services statutes, and the department's Occupational License requirements. This is necessary for the department to comply with the statutory mandate of Section 1685(f) of the Vehicle Code to provide oversight and monitor business partners.

Subdivision (d)(11) informs a business partner applicant that the department will refuse to enter into a contract when a business partner, one of its owners or one of its employees has previously worked for the department and was dismissed by the department for cause. This is necessary for the department to comply with the statutory mandate of Section 1685(b)(2)(B) of the Vehicle Code that requires the department to focus on and be concerned about an applicant's "character, honesty, integrity and reputation".

#### **§225.21. Review of Criminal History Information.**

Subdivision (a) provides that in reaching a decision on approval or disapproval of a business partner owner or employee to participate in the BPA Program, the Program Administrator or his/her designee shall consider Penal Code Section 11105(b)(9) and the "Occupational Licensing and Disciplinary Guidelines" (Rev. 3/98) incorporated by reference in Section 440.04, Article 6.1, Chapter 1, of Division 1 of Title 13 of the California Code of Regulations. This is required to inform a business partners and potential business partners of the department's criteria to determine eligibility for participation in the BPA. This is necessary for the department to comply with the statutory mandate of Section 1685(f) of the Vehicle Code to provide oversight and monitor business partners and Section 1685(b)(3) of the Vehicle Code to safeguard privacy and protect the information authorized for release and in the department's vehicle registration database.

Subdivision (a)(1) provides that deviation from the Guidelines is appropriate where the Director or his/her designee, in his/her sole discretion, determines that the facts warrant such a deviation, for example, the presence of mitigating factors, how long ago the conduct, action, or offense occurred, evidentiary problems and if the department has received consumer complaints. This is necessary to allow mitigating factors to be considered when reviewing a business partner's or a business partner employee's participation in the BPA Program. This is necessary for the department to comply with the statutory mandate of Section 1685(f) of the Vehicle Code to provide oversight and monitor business partners and Section 1685(b)(3) of the Vehicle Code to safeguard privacy and protect the information authorized for release and in the department's vehicle registration database.

#### **§225.24. Failure to Meet Security Requirements.**

This section provides that failure of an applicant or a business partner to comply with the information security requirements identified in Section 225.51 to the satisfaction of the department shall be good cause for the department to cancel, terminate or refuse to enter into a BPA contract with such business partner

applicant. This is necessary to safeguard privacy and protect the information authorized for release and in the department's vehicle registration database.

**§225.27. Transaction Access.**

Subdivision (a) requires a business partner to access the department's data communication system and databases through a department-approved network. This is required to inform a business partners and potential business partners how the program will operate. This is necessary to protect the security and privacy of vehicle registration customers that process transactions through a business partner.

Subdivision (b) requires a business partner's interface access to be compatible with the department's interface. Equipment to access and interface with the department's databases shall be the responsibility of a business partner. This is required because the department only accepts electronic interface access through a secure public network that is nationwide. The department chose AAMVAnet because it was created to develop a nation-wide telecommunication network to implement the information systems requirements of the Commercial Motor Vehicle Safety Act of 1986. This established network is an affiliate corporation of the American Association of Motor Vehicle Administrators (AAMVA). This public network provides a high level of security with the broad accessibility to all businesses.

**§225.30. Electronic Fund Transfer.**

Subdivision (a) requires a business partner to comply with the terms of the standard Electronic Fund Transfer (EFT) contract that sets up the monetary transfer process for payment of fees collected by business partners and due to the department. This contract has been approved by the Department of General Services. A copy is included in the forms section of the rulemaking file. This subdivision is necessary to inform business partner applicants of the monetary transfer process required for the BPA.

Subdivision (a)(1) requires first-line business partners to authorize the department to initiate debit entries into the business partner's account that is identified in the EFT contract for the payment of fees collected for and due to the department as stipulated in the EFT contract. This is necessary to inform first-line business partners of the major component in the EFT contract.

Subdivision (a)(2) requires first-line service providers to authorize the department to initiate debit entries into the business partner's account that is identified in the EFT contract for the payment of fees collected for and due to the department as stipulated in the EFT contract and collected by the second-line business partners. This is necessary to inform first-line service providers and second-line business partners of the major component in the first-line service provider EFT contract.

Subdivision (a)(3) requires the department to suspend interface access until all fees and charges are paid when a business partner's depository account is closed or there are insufficient funds to pay the billing amount. The bank charges and a \$30 insufficient funds fee (returned item charge) will be paid to the department before the interface access is reestablished. This informs business partners of the seriousness which the department expects and requires business partners to meet its fiduciary responsibility and the impact that will result from not meeting that responsibility.

Subdivision (a)(4) requires business partners to submit reimbursement by wire transfer on the same day a business partner receives notification from the department of the insufficient funds or closed account status for the account

identified in the EFT contract. This is necessary to inform business partners of the proper process to meet its fiduciary responsibility and remain in the BPA program.

**§225.33. Use and Retention of Information.**

Subdivision (a) requires business partners to not use any information received from a customer or the department beyond the processing of the vehicle registration transactions authorized in the BPA contract. This is required to inform business partners of the information privacy requirements and that the information cannot be used to expand alternative or additional business opportunities.

Subdivision (b) requires business partners to treat all information with the same legal protections as the department treats its own information. These specific statutes limit public access to the department's records and establish the penalty for unauthorized access and distribution. This is necessary to allow the department to comply with the statutory mandate of Section 1685(f) of the Vehicle Code that provides provide oversight and monitor business partners and Section 1685(b)(3) of the Vehicle Code that safeguard privacy and protects the information authorized for release.

**§225.36. Change of First-Line Service Provider.**

Subdivision (a) informs business partner of its responsibilities when changing first-line service providers. A second-line business partner must complete, sign, and submit a Business Partner Automation Program Service Provider Change form, REG4022 (Rev. 11/2002) to the BPA Program Administrator 20 days prior to any change of service provider. This process and form are required by a business partner and will inform the department of electronic access and billing changes in a timely manner. This will prevent a second-line business partner from processing transactions under two service providers at the same time, thus circumventing auditing and report monitoring, and increasing the opportunity and chance for fraud.

Subdivision (a) incorporates the Business Partner Automation Program Service Provider Change form, REG4022 (Rev. 11/2002) by reference in the regulations. The purpose of the form is to provide a business partner with a document that lists all the required elements needed to change from one first-line service provider to another. Second-line business partners exclusively use the form. The form requires the name, complete street address, office identification number and site identification number of the second-line business partner. This information is necessary to identify the correct second-line business partner and permit site. The telephone number is required as an efficient method of communication with a business partner. The form requires the name of the current service provider and the new service provider, the effective date of change and the current contract expiration date for the current service provider. This information is required for auditing purposes and to allow the department to transfer the payment collection of EFT fees to the correct service provider. The first-line service provider is responsible for payment to the department, not the second-line business partner.

The statement "Reason for changing service providers" is asked of the second-line business partner. This information is required as a check to determine the stability and honesty of the first-line service provider. The question "Have your floor plans changed" is asked of the second-line business partner. If the answer is "yes," then new floor plans and a security narrative are required. If the answer is "no," then a business partner completes the form and signs it, with no additional documentation required. This is required to determine that the level of security for the information

on the department's database and inventory are maintained. The certification in the middle of the page requires a business partner to indicate the site street location if there are no physical changes to the floor plan. This is required to clearly identify the site location and emphasize the importance of providing accurate information about the change.

The street address, county, state where the form was signed, date that the form was signed, the name of a business partner, authorized agent's signature, and printed name and title are required to establish a legal basis for holding a business partner accountable for the information provided. This allows the department to follow a prescribed legal course of action. The street address, city, state, zip code and telephone number allows the department to efficiently correspond with a business partner's authorized agent should the department have questions or concerns about the change.

The estimated yearly total transaction volumes and the amount broken down by new vehicle report of sale or registration renewal transactions are required to determine the amount of inventory a business partner is allowed to store. The form asks the following question, "Are there any plans to change transactions in the future?" The question is asked to determine if a business partner will be ordering additional inventory.

The last information on the form is a business partner's name and the signature of the second-line business partner's authorized agent and the date. This information is necessary to establish a legal basis for holding the second-line business partner accountable for the information provided.

Subdivision (b) requires the department to authorize the proposed change only if the proposed first-line service provider is currently authorized by the department to act as a first-line service provider and the requirements of Section 225.36(a) have been met. This check prior to authorizing the change is required to preserve and maintain the level of security that was in place prior to the change.

### **§225.39. Business Partner Responsibilities.**

Subdivision (a) requires first-line service providers to be responsible for specific actions regarding its second-line business partner clients. These responsibilities are listed below. This is necessary for the department to comply with the statutory mandate of Section 1685(f) of the Vehicle Code to provide oversight and monitor business partners while maximizing departmental resources.

Subdivision (a)(1) requires first-line service providers to provide oversight for their second-line business partners to ensure they are in compliance with the terms and conditions of their BPA contracts. This is necessary to minimize fraud and theft while maximizing departmental resources.

Subdivision (a)(2) requires first-line service providers to ensure that their prospective second-line business partner clients submit all application requirements pursuant to Section 225.03 of these regulations. The application forms used by each type of business partner are specific to the type of business partner. All the required information is complete prior to approval, execution of the contract and issuance of the permit.

Subdivision (a)(3) requires first-line service providers to order and distribute inventory for their second-line business partners. This is necessary to minimize fraud and theft while maximizing departmental resources.

Subdivision (a)(4) requires first-line service providers to establish an automated inventory tracking and assignment system to track license plates and stickers shipped to the first-line service provider or an approved second-line business partner. The automated inventory tracking and assignment system shall be capable to recording the date received, status, and location of all accountable inventory. This is necessary to minimize fraud and theft while maximizing departmental resources.

Subdivision (a)(5) requires the first-line service provider to track and monitor the issuance of accountable and controlled inventory assigned to second-line business partners. This is necessary to minimize fraud and theft while maximizing departmental resources.

Subdivision (a)(6) requires first-line service providers to ensure second-line business partners do not have more than a three (3) month supply of inventory in their possession at any time. This is necessary to minimize fraud and theft while maximizing departmental resources.

Subdivision (a)(7) requires first-line service providers to submit comprehensive quarterly physical inventory reports for their second-line business partners on a "Physical Inventory Non-DMV Entities" (form ADM 175A). This is necessary to minimize fraud and theft while maximizing departmental resources.

Subdivision (a)(8) requires first-line service providers to establish security awareness and education programs and measures to ensure second-line business partners are aware of the first-line service provider's information privacy procedures. This is necessary to minimize fraud and theft while maximizing departmental resources.

Subdivision (a)(9) requires first-line service providers to ensure second-line business partners have implemented the physical security measures and methods required by these regulations and in the BPA contract to prevent and discourage inadvertent or deliberate alteration, disclosure, destruction, loss, misuse, or theft of DMV records, proprietary assets, and accountable and controlled items in their possession. This is necessary to minimize fraud and theft while maximizing departmental resources.

Subdivision (a)(10) requires first-line service providers to control access to the department's vehicle registration and titling and inventory databases by use of an authentication credentialing system that shall identify, authenticate and authorize access for each individual user. This is necessary to minimize fraud and theft while maximizing departmental resources.

Subdivision (a)(11) requires first-line service providers to provide registration and titling training for their second-line business partners authorized to participate in the BPA program. This is necessary to allow the department to comply with the statutory mandate of subdivision (f) of Vehicle Code Section 1685, that provides oversight and monitor business partners, and subdivision (b)(3), that safeguards privacy and protects the information in the department's vehicle registration database.

Subdivision (a)(12) requires first-line service providers to audit and reconcile transactions processed by their second-line business partners. This is necessary to minimize fraud and theft while maximizing departmental resources.

Subdivision (a)(13) requires first-line service providers to submit all completed transactions to the department within twenty (20) days of the date the transaction

was processed. This is necessary to ensure that a first-line service provider meets its fiduciary responsibilities.

Subdivision (a)(14) requires first-line service providers to ensure their second-line business partners comply with the advertising requirements identified in any agreement with the department. This is necessary to allow the department to comply with the statutory mandate of subdivision (f) of Vehicle Code Section 1685, to provide oversight and monitor business partners, and to maximize departmental resources.

Subdivision (a)(15) requires the first-line service provider to submit all fees collected for and due to the department. This is necessary to inform first-line service providers of their fiduciary responsibilities.

Subdivision (b) provides for recovery of the department's costs for investigation or audit of a second-line business partner from the first-line service provider when the second-line service provider doesn't pay after receiving a billing statement from the State. This is necessary to inform first-line service providers of their fiduciary and security responsibilities.

Subdivision (b)(1) through (3) list the various expenses the State is asking for reimbursement. This is necessary to inform the business partners of the extent of their financial obligations.

Subdivision (c) provides for an alternative plan if the second-line business partner does not pay within the thirty days as required in Section 225.39(b). This informs the business partners of that plan.

#### **§225.42. Business Partner Changes.**

Subdivision (a) requires business partners to notify the BPA Program Administrator on a Business Partner Automation Program Application for Changes form, REG4026 (Rev. 11/2002) within the time frames identified in subdivisions (a)(1) through (a)(7). This procedure and time frame are needed to allow adequate time and proper documentation for the implementation of a change or changes requested to the department's records and/or systems.

In subdivision (a) the form is incorporated by reference. The form requires the name of a business partner and the site identification number. This is necessary to identify the business partner that is requesting a change and needed to identify the appropriate site, as a business partner may have more than one site in the BPA.

The next section on the form refers to side A and Side B. A business partner is required to check the appropriate box or boxes for the change(s) that a business partner is requesting under Side A and/or Side B and complete the corresponding section related to the request. This is required to identify the change or changes requested by a business partner. This is necessary to document changes that a business partner requests and establish a legal basis for holding a business partner accountable for the requested change.

The first box entitled "Closing site" is to be checked if a business partner cancels or withdraws a site and thus cancels or withdraws from a permit. The section entitled "Adding or changing business address" is also to be completed when this box is checked. The street address including the number, street, city, state, zip code and telephone number are required to maintain contact with a business partner and for auditing and security purposes.

The second box entitled “Changing business, corporate name, or Limited Liability Company (LLC) name” is to be checked when a business partner changes its name. The section entitled “Changing Business Name” is to be completed and shall include the new name of a business partner. This is required to identify and maintain contact with a business partner that signed the contract and for auditing purposes.

The third box entitled “Adding site” is to be checked when a business partner is adding an additional site. The section entitled “Adding or changing business address” is also to be completed when this box is checked. The street address including the number, street, city, state, zip code and telephone number are required to identify and maintain contact with a business partner and for auditing and security purposes.

The fourth box entitled “Changing address of principal place of business or site” is to be checked when a business partner is changing the address of the principal place of business or site. The section “Adding or changing business address” is also to be completed when this box is checked. The street address including the number, street, city, state, zip code and telephone number are required to identify and maintain contact with a business partner and for auditing and security purposes.

The fifth box entitled “Adding or deleting employee” is to be checked when a business partner is adding or deleting employee(s). The section “Adding or deleting employees” is also to be completed when this box is checked. The effective date that the employee is added to or deleted from participation in the BPA program, the employee’s true full name (first, middle and last name), his/her driver license or state issued identification card number, that state that issued the number, date of birth, and his/her residence address, including the number, street, city, state and zip code. This is required for the department to maintain an accurate list of approved BPA employees that have a completed background check that was reviewed and approved by the BPA Program Administrator, and to monitor for auditing and security purposes.

The certification at the bottom of the page requires a business partner or a designated representative to date, sign and list the signer’s job title on a certification under penalty of perjury under the laws of the State of California. The certification is made under penalty of perjury that the information given is true and correct. The signer is therefore acknowledging importance of this document and the consequences of making false statements and understands the importance of furnishing correct information. The signature of the person signing the form and the date that it is signed is necessary to establish a legal basis for holding the signer accountable for the information provided. The job title is required to hold the BPA business partner accountable for the information provided.

The back of the form is completed when one the four boxes for changes under Side B (at the top of the front page) is checked.

The first box on Side B entitled “Changing Controlling Director(s) and/or Officers” is to be checked when a business partner changes its controlling director(s) and/or officer(s). This requirement applies only to business partner owners, management, staff and employees that meet the requirement in Section 225.03(d) of these regulations. The section on the back page entitled “Adding or Deleting Director(s)/Officer(s)/Partner(s)/Management/Supervisors” is also to be completed. The following information is required: date added to or deleted from the BPA business; the person’s true full name, including the first, middle, last name and suffix, if part of a persons name; and his/her job title at the BPA business. This informs a



business partner and potential business partners of the job functions to which this form applies. The notification of a change of director(s) or officer(s) is required to maintain the approved list of BPA employees that have a completed background check that was reviewed and approved by the BPA Program Administrator. This information identifies the individual, and informs the department of changes to the BPA employee list. This is necessary for auditing and security purposes.

The second box on Side B entitled “Changing members of Limited Liability Company” is to be checked when a business partner has a change in the limited liability company members. This requirement applies only to limited liability company members that meet the requirement in Section 225.03(d) of these regulations. The section on the back page entitled “Adding or Deleting Member(s) or Manager(s) Limited Liability Company” is also to be completed. The following information is required: date added to or deleted from the BPA business; the person’s true full name, including the first, middle, last name and suffix, if part of a persons name; and his/her job title at the BPA business. This information identifies the individual, and informs the department of changes to the BPA employee list. This is necessary for auditing and security purposes.

A certification on the back of the form for directors, officers, members of a LLC, stockholders, partners or management and supervisors involved with the BPA requires a business partner or a designated representative to date, sign and list the signer’s job title on a certification under penalty of perjury under the laws of the State of California. The certification is under penalty of perjury that the information given is true and correct. The signer is therefore acknowledging importance of this document and the consequences of making false statements and understands the importance of furnishing correct information. The signature of the person signing the form and the date that it is signed is necessary to establish a legal basis for holding the signer accountable for the information provided. The job title is required to hold the BPA business partner accountable for the information provided.

Subdivision (a)(1) requires a business partner when closing a site to complete and sign the form no later than five days after the closure of the site. The site is to be identified by the site identification number. There is no processing fee for the closing of the site. This informs a business partner of its obligation to inform the department when transactions will no longer be processed from a specific location. The form is to be used by the department as official documentation of a change to the BPA application, contract and permit. This is necessary to minimize fraud and theft.

Subdivision (a)(2) requires a business partner to complete the form when there is a business, corporate or Limited Liability Company name change. The business partners are to notify the BPA Program Administrator no more than twenty days after the effective date of the name change. The form is to be used by the department as official documentation of a change to the BPA application, contract and permit. This is necessary to minimize fraud and theft while maximizing departmental resources.

Subdivision (a)(3) requires a business partner to complete the form when adding a site after entering into a BPA contract. A non-refundable processing fee of one hundred and seventy-five dollars (\$175) is to be sent with the change form to the BPA Program Administrator. The fee is required to cover the cost of changing the department’s files, databases, and documents. The form is to be used by the department as official documentation of a change to the BPA application, contract

and permit. This is necessary to minimize fraud and theft while maximizing departmental resources.

Subdivision (a)(4) requires a business partner to complete the form when changing the address of a principal place of business or site. The business partner is to notify the BPA Program Administrator no more than twenty days after the effective date of the address change. The form is to be used by the department as official documentation of a change to the BPA application, contract and permit. This is necessary to minimize fraud and theft while maximizing departmental resources.

Subdivision (a)(5) requires a business partner to complete the form before an employee can access the department's inventory and/or data. There is no processing fee for this change. The business partner is reminded, by referencing Section 225.03(d) of these regulations, that the background check process must be complete and the department must have approved the employee to participate in the BPA before the employee is authorized to access DMV inventory or data. The form is to be used by the department as official documentation. This is necessary to minimize fraud and theft.

Subdivision (a)(6) requires a business partner to complete the form when an employee no longer has access to the department's inventory and/or data. The business partner is to notify the BPA Program Administrator no more than five days after deleting an employee from the BPA Program. There is no processing fee for this change. The business partner is required to indicate the reason the employee is being deleted so the department will be able to track employees that may seek employment by other business partners, if necessary. The form is to be used by the department as official documentation.. This is necessary to minimize fraud and theft.

Subdivision (a)(6)(A) requires a business partner to notify the BPA Program Administrator no more than one day after an employee is terminated for cause. This is necessary to minimize fraud and theft while maximizing the department's resources.

Subdivision (a)(7) requires a business partner to complete the form when changing controlling director(s) and/or officer(s); changing member(s) of a Limited Liability Company; changing management and/or supervising BPA personnel; or changing partner(s) or stockholder(s). The business partner is to notify the BPA Program Administrator no more than twenty days after the effective date of the change. The form is to be used by the department as official documentation of a change to the BPA application, contract and permit. This is necessary to minimize fraud and theft while maximizing departmental resources.

Subdivision (b) requires a business partner to notify the BPA Program Administrator in writing on business partner letterhead and signed and submitted at least twenty (20) days prior to the effective date of any changes set forth in subdivisions (b)(1) and (2). The written notification is to be sent by US mail, facsimile or private carrier. This informs business partners of the time frame the department requires to implement the changes to reports, inform staff and/or review for compliance with other BPA requirements identified in the regulations, statute, and the BPA contract.

Subdivision (b)(1) requires notification of a "Doing Business As" (DBA) name change. The written notification from a business partner is used by the department as official documentation of a change to the BPA application, contract and permit. This is necessary for the department to comply with the statutory mandate of Section 1685(f) of the Vehicle Code to provide oversight and monitor business partners.

Subdivision (c) requires business partners to provide the BPA Program Administrator a written and signed notification on business partner letterhead no more than five days after the effective date for specific changes identified in subdivision (c)(1) through (c)(3).

Subdivision (c)(1) requires notification of a change of the operations contact person. This is necessary for the department to comply with the statutory mandate of Section 1685(f) of the Vehicle Code to provide oversight and monitor business partners.

Subdivision (c)(2) requires notification of a change of the registered agent for service of process. This is necessary for the department to comply with the statutory mandate of Section 1685(f) of the Vehicle Code to provide oversight and monitor business partners.

Subdivision (c)(3) requires notification of a mailing address change. This is required for the department to communicate with a business partner. This is necessary for the department to comply with the statutory mandate of Section 1685(f) of the Vehicle Code to provide oversight and monitor business partners.

Subdivision (d) requires a business partner to notify the BPA Program Administrator in a signed and written notification on business partner letterhead and sent by facsimile, US mail, or private courier at least sixty (60) days prior to the effective date of a change of the financial institution's account number listed in the EFT contract. Sixty days is required to execute a new EFT contract, modify the BPA interface and receive confirmation from the banking institution. This is necessary for the department to comply with the statutory mandate of Section 1685(a) of the Vehicle Code that authorizes the department to establish contracts for electronic programs that include payment programs.

Subdivision (d)(1) requires a business partner to execute a new EFT contract when there is a change of the financial institution account number. A new EFT contract is required because the banking institution information contained in the executed contract is no longer valid.

Subdivision (e) requires a business partner to notify the BPA Program Administrator within seven (7) days of a change of the contact telephone number. This change is to be provided in a signed, written notification on the business partner letterhead and sent by facsimile, US mail or private courier. This is required to effectively communicate with business partners and to inform a business partner of the need to communicate at all times. This is necessary for the department to comply with the statutory mandate of Section 1685(f) of the Vehicle Code to provide oversight and monitor business partners.

#### **§225.45. Customer Fees.**

Subdivision (a) requires business partners to complete a Business Partner Automation Disclaimer form, REG4020 (Rev. 11/2002) for each transaction when a transaction fee is charged. This is required to identify and separate, for the customer, a business partner's transaction fee from the department's fees. This is necessary for auditing purposes and to prevent fraud.

Subdivision (a)(1) requires that the customer sign the form after a business partner enters the transaction fee amount on the form that a business partner is charging to process its transactions. This is required to allow customers to make an informed decision as to whether he/she wishes to pay the extra fee a business partner charges

to process the transaction. This is necessary for auditing purposes and to check for fraud and mishandling of department funds collected by business partners.

Subdivision (a)(2) requires a business partner to provide the completed original of the Business Partner Automation Disclaimer form to the customer, keep a completed copy with its records, and send a copy to the department with the transaction documents. In addition, voided copies are to be retained with the completed copies kept by the business partner for auditing purposes. This is necessary for auditing purposes and to check for fraud and mishandling of department funds collected by business partners.

Subdivision (a)(3) incorporates by reference the BPA Disclaimer form, REG 4020 (Rev. 11/2002) identified in subdivision (a) of these regulations. The form is incorporated by reference, as it is information intensive and would be better understood in the statement of reasons. The form is available on the department's website, by mail, or email.

\*\*\*\*\*

The Business Partner Automation Disclaimer form requires the unique site ID number used by the department to identify that particular BPA site. This is necessary for auditing purposes. The form is signed by the registered owner(s). The general vehicle information, which includes the vehicle identification number, make, and buyer's name is provided by a business partner. A business partner's transaction fee amount is entered on the form in the paragraph that informs the buyer/registered owner that this is not a DMV fee and is in addition to the department's fees. This information is necessary for auditing purposes and to prevent fraud.

In the next paragraph, the buyer/registered owner writes in the registered owner's name and the name and address of the business partner that is processing the registration or titling transaction. This information is necessary for auditing purposes and to prevent fraud.

The form is certified under penalty of perjury under the laws of the State of California and include the city, county, state and date signed. The BPA agent and buyer(s)/registered owner(s) print their names and sign the form. This information is required and necessary to authenticate the certification and identify the person signing for a business partner to answer auditing questions. The certification is made under the penalty of perjury under the laws of the State of California that the information given is true and correct. The signer is therefore acknowledging the consequences of making false statements and understands the importance of furnishing correct information. The signature of the person signing on behalf of a business partner and the date that it is signed is necessary to establish a legal basis for holding a business partner accountable for the information provided.

Subdivision (b) identifies the maximum amount a customer may be charged for each vehicle renewal transaction processed by a business partner is twenty-five dollars (\$25). This is necessary to comply with Section 1685(c) that mandates the Director of the Department of Motor Vehicles to establish in regulation the maximum amount that a business partner may charge a customer to process a transaction. The maximum amount selected by the department is based on the survey responses provided by the current and past BPA business partners and based on discussions with the industry.

Subdivision (c) provides that the maximum amount a customer may be charged for each new vehicle report of sale transaction processed by a business partner is twenty-

five dollars (\$25). This is necessary to comply with Section 1685(c) that mandates the Director of the Department of Motor Vehicles to establish in regulation the maximum amount that a business partner may charge a customer to process a transaction. The maximum amount selected by the department is based on the survey responses provided by the current and past BPA business partners.

Subdivision (d) informs the business partners that the maximum amount charged for a transaction does not include the cost of the departmental transaction fee authorized in statute.

#### **§225.48. Transaction Fee.**

Subdivision (a) requires a first-line business partner and a first-line service provider to pay a transaction fee to the department in the amount of two (2) dollars for each new vehicle report of sale transaction and each vehicle renewal transaction. The fee is mandated by statute (CVC section 1685(d)) and the amount determined by a costing provided with this regulatory package. The transaction fee is included in the total amount established in Section 225.45 of these regulations. The fee shall become effective July 1, 2003 to give the department time to set up a collection process and for the regulations that establish the amount of the fee to be come effective.

Subdivision (b) shall be paid to the department within ten (10) days of receipt of a bill notice sent by the department. This is to allow time for the business partner to determine if the amount is valid and to process payment for the bill. The address to send the fees by US Mail or private courier is included in the regulation to ensure that the fees are paid to the correct address, do not become lost and arrive in a timely manner.

Subdivision (c) reminds the

#### **§225.51. Information Security Requirements.**

Subdivision (a) requires a business partner, its owners and employees to comply with the department's *IT Security Guidelines for Use in BPA Program* (October 2002). This document is incorporated by reference in the regulations.

\*\*\*\*\*

Subdivision (1) of the *IT Security Guidelines for Use in BPA Program* (October 2002) provides a description of the context, purpose and scope of the guidelines. The department in determining whether or not to permit access to the department's hardware, software and data, and in making subsequent decisions concerning continuing access will apply the guidelines.

Subdivision (2) clarifies the application of the guidelines to all business partners and business partner applicants.

Subdivision (3) provides definitions of terms used in the guidelines, for purposes of clarity and uniform use of the terms.

Subdivision (4) contains general requirements that a person having access to the department's computer system shall use that access only for authorized purposes; shall maintain the privacy, security and integrity of the department's computer system; shall prevent damage to the department's hardware, software and data; and shall prevent unauthorized access to the department's computer system. This is

necessary for the department to comply with the statutory mandate of Section 1685(f) of the Vehicle Code to provide oversight and monitor business partners, and Section 1685(b)(3) of the Vehicle Code to safeguard privacy and protect the information authorized for release.

Subdivision (5) contains requirements for the business partner's or business partner applicant's information technology security program. The minimum elements of a security program must include procedures and practices to protect the department's information assets, and to ensure they are used only in an appropriate manner. Where the business partner is a first-line service provider, the procedures and practices will include governing the activity of second-line business partners. The procedures and practices must include arrangement of worksites in a manner which contributes to the security of information assets; exclusion of persons not authorized access to the department's information assets from locations where information can be viewed; storage of records in devices that are not readily portable; training of officers, employees and agents (including second-line business partners, where applicable) on the procedures and practices necessary to protect the department's information assets; record keeping for all transactions attempted or performed, all workstations used to access the department's information assets, and all individuals permitted access to the system; immediate and appropriate responses to security incidents; compliance with all regulations and other laws relating to the protection of the State's information assets and confidential information; provision of a detailed description of the information technology security program to the department; and subsequent changes to the information technology security program, as necessary. This is necessary for the department to comply with the statutory mandate of Section 1685(f) of the Vehicle Code to provide oversight and monitor business partners and Section 1685(b)(3) of the Vehicle Code safeguard privacy and protect the information authorized for release.

Subdivision (6) provides for documentation and modification of the business partner's information technology security program, and obligates the business partner to follow its program. This subdivision requires a business partner or business partner applicant to provide the department with a detailed written description of its information technology security program. The department will grant or refuse a business partner application for access or may limit access granted based on the adequacy of the information technology security program. The business partner must comply with the security program description unless the department has approved a modification of the program. This is necessary for the department to comply with the statutory mandate of Section 1685(f) of the Vehicle Code to provide oversight and monitor business partners and Section 1685(b)(3) of the Vehicle Code safeguard privacy and protect the information authorized for release.

Subdivision (7) requires a business partner to collect a completed and signed *Information Security and Disclosure Statement, Public/Private Partnerships Employee*, form EXEC200X, from every individual to be provided access to the department's information assets, including any officer, agent, and employee of the business partner and the officers, agents and employees of second-line business partners, where applicable. The completed and signed forms must be maintained by the business partner, and made available to the State upon request, while the individual has access to the department's computer system and for 3 years following

the last time the individual has access. This is necessary for the department to comply with the statutory mandate of Section 1685(f) of the Vehicle Code to provide oversight and monitor business partners and Section 1685(b)(3) of the Vehicle Code safeguard privacy and protect the information authorized for release.

Subdivision (8) clarifies that individuals may be permitted access to the department's information assets only after the business partner has been notified by the department that access is approved, and the business partner has received a completed and signed *Information Security and Disclosure Statement, Public/Private Partnerships Employee*, form EXEC200X, from the individual.

Subdivision (9) authorizes a first-line service provider to permit a second-line business partner access to the department's information assets only while the second-line business partner is authorized by the department to have such access.

Subdivision (10) details information the business partner's information technology security program is to include. These elements are diagrams illustrating the floor plan of each worksite; a narrative description of the security features of the worksite; a narrative description of storage areas and furniture used in connection with access to the department's information assets and storage of data; and a narrative description of the processes and procedures to prevent unauthorized individuals from being exposed to personal, confidential or proprietary information. This is necessary for the department to comply with the statutory mandate of Section 1685(f) of the Vehicle Code to provide oversight and monitor business partners and Section 1685(b)(3) of the Vehicle Code safeguard privacy and protect the information authorized for release.

Subdivision (11) requires the business partner to maintain a record of all individuals provided access to the department's information assets. The business partner must maintain the record, and must make it available to the State upon request, while the individual has access and for 3 years from the last time the individual has access to the department's information assets. This is necessary to provide oversight and monitor business partners.

Subdivision (12) requires the business partner to maintain a record of all workstations through which it has provided access to the department's information assets. The business partner must maintain the record while the workstation is capable of access to the department's computer system, and must make it available to the State upon request for 3 years from the last time the device was capable of access to the department's information assets. This is necessary to provide oversight and monitor business partners.

Subdivision (13) requires the business partner to maintain a record of all transactions conducted through the business partner's access to the department's information assets. The business partner must maintain the record while the workstation is set up for access, and must make it available to the State upon request, for 3 years from the last time the workstation was used to access the department's information assets. This is necessary to provide oversight and monitor business partners.

Subdivision (14) requires a first-line service provider to maintain records of all individuals, workstations and transactions of its second-line business partners. This is necessary for the department to comply with the statutory mandate of Section 1685(f) of the Vehicle Code to provide oversight and monitor business partners.

Subdivision (15) requires a first-line service provider to include in its information technology security program the activities of its second-line business partner's officers, agents and employees. This is necessary for the department to comply with the statutory mandate of Section 1685(f) of the Vehicle Code to provide oversight and monitor business partners.

Subdivision (16) requires a second-line business partner to include in its information technology security program compliance with the first-line service provider's information technology security program. This is necessary to safeguard privacy and protect the department's information that is authorized for release.

Subdivision (17) provides for audits to determine the business partner's compliance with the information technology security guidelines. This is necessary for the department to comply with the statutory mandate of Section 1685(f) of the Vehicle Code to provide oversight and monitor business partners.

Subdivision (18) contains detailed provisions that require a business partner to notify the department's Information Security Officer within one business day of discovery of facts or information that indicates the occurrence of a security incident involving the department's information assets. This is necessary to safeguard privacy and protect the department's information that is authorized for release.

Subdivision (19) provides a description of the passwords, credentials and authentication program limiting access to the department's computer system that a business partner must adopt. This is necessary to safeguard privacy and protect the department's information that is authorized for release.

Subdivision (20) permits the business partner to propose an alternative information technology security program, and authorizes the department to consider any varying program proposed by a business partner if in the judgment of the department the program provides equal or greater protection of the department's information assets. This is necessary to reduce the unnecessary regulatory burden on private individuals and entities, in accordance with the Legislative intent stated in Government Code section 11340.1.

\*\*\*\*\*

Subdivision (b) requires business partners to comply with the Information Practices Act of 1977 (Section 1798 et seq. of the Civil Code), the Public Records Act (Section 6250 of the Government Code), Sections 1808.21 and 1808.47 of the Vehicle Code, Sections 11015.5 and 11019.9 of the Government Code, and any and all related statutes pertaining to information privacy. This is required to inform business partners of their responsibilities to comply with laws related to information security and privacy of information. This is necessary for the department to comply with the statutory mandate of Section 1685(f) of the Vehicle Code to provide oversight and monitor business partners and Section 1685(b)(3) of the Vehicle Code to safeguard privacy and protect the information authorized for release.



#### **§225.54. Transaction Procedures and Inventory Requirements.**

This subdivision identifies the procedures document the business partners use to process transactions and order and dispose of inventory. The handbook is entitled the "Business Partner Automation Program Transaction Procedures and Inventory Requirements Handbook" (December 6, 2002).

The handbook is divided into eight sections. They are as follows: New Vehicle Report of Sale Transactions, Registration Renewal Transactions, Inventory Ordering, Receiving Inventory, Inventory Returns and Disposal, Inventory Assignment, Quarterly Physical Inventory Reconciliation, and List of DMV Forms.

Sections A and B inform the business partners of the vehicle transactions that can be keyed into the department database. The new vehicle report of sale transactions and the registration renewal transactions are the only two transactions business partners can process for the department. Each of these sections provides the steps to process the complete transaction, from review of the application, keying into the system, collecting the money and issuing departmental indicia. Each section also provides additional requirements for specific types of vehicles, statutory exemptions or requirements authorized by the Vehicle Code and special handling of duplicate documents that are known to be highly susceptible to fraudulent attempts to secure invalid vehicle ownership documents or plates and stickers to be used illegally. A chart to identify the various data fields and the data field requirements when keying in information is also included. This information follows the processing rules used in the department's field offices and headquarters and is necessary to complete the transactions.

Sections C through F inform the business partners of the inventory procedures and requirements. Section C identifies the ordering procedures for business partners, identifies the two different types of inventory (controlled and accountable), identifies the forms to use, how to complete the forms, what stock number for each of the inventory items that would be needed by a business partner and ordering and shipping information. Section D informs the business partners of the step-by step inventory procedures to follow when receiving inventory from the department. In addition, the procedures to follow when shipping errors are discovered. Section E informs the business partners the procedures to return and dispose of inventory. Section F informs business partners of the procedures for the assignment of plates and stickers.

Section G informs business partners of the requirements and procedures to complete the quarterly physical inventory reconciliation. This section identifies when the report is to be completed, who is to complete the report and the information fields that are to be recorded on the form designed for the reconciliation process. Section H is a list of the departmental forms identified in the handbook.

This handbook and the information provided in the handbook is the only resource the business partners are provided to complete the actual DMV transactions and to issue the appropriate DMV inventory to customers.

#### **§225.57. Inventory.**

This section is reserved for future use.

#### **§225.60. Retention of Business Records.**

Subdivision (a) requires each business partner to maintain all records related to the BPA program. The records are to be retained for the term of the contract and for three (3) years after the termination, cancellation or expiration of the contract and during any ongoing examination, audit and investigation as referenced in Sections 225.63 and 225.66 of these regulations. This is required for auditing purposes, to determine security breaches and minimize fraud.

Subdivision (b) requires all records to be made available during normal business hours upon the department's request. This is required for auditing purposes, to determine security breaches, and minimize fraud.

Subdivision (b)(1) requires a business partner with an out-of-state site location to agree in writing to make the business records available in California or pay the reasonable and actual expenses for travel, meals and lodging incurred by the department's representative(s) during an examination, investigation or audit made at a business partner's out-of-state site location. The decision to make the business records available or pay the expenses will be subject to the BPA Program Administrator's discretion. This document is required before a permit is issued. This is necessary to audit, investigate and examine all records to determine security breaches and minimize fraud.

Subdivision (c) requires a business partner to retain the reports at a business partner's principal place of business. This is required for auditing purposes.

Subdivision (d) provides that the BPA records maintained by the business partner are the property of the department. This is required for auditing purposes, to minimize fraud and ensure customers the privacy of the information based on the transaction information.

#### **§225.63. Audit Requirements.**

Subdivision (a) requires a business partner to hire an independent auditor to perform three (3) compliance audits during the term of the BPA contract. The audits will follow generally accepted government auditing standards and the department's BPA Audit plan and Independent Auditor Program. This is required and necessary to determine security breaches, to minimize fraud while maximizing departmental resources, and to meet the mandate in Section 1685(f) of the Vehicle Code.

Subdivision (a) requires that an independent auditor obtain from the department the BPA Auditing Plan, which consists of the Independent Auditor Plan (August 30, 2002) and the Independent Auditor Program (August 30, 2002) that identifies the audit criteria for a BPA compliance audit. These documents are not provided to a business partner or specified in the regulations based on Government Code section 11340.9 (e), which exempts criteria for audit. This informs a business partner, potential business partner and independent auditors that audit criteria has been developed and is to be the basis for the compliance audit and the findings report. The independent auditor is informed that the department's business practices are also confidential and not to be released. This is necessary to meet the department's mandate to ensure adequate oversight and monitoring of business partners as required in Section 1685(f) of the Vehicle Code.

Subdivision (a)(1) allows a second-line business partner only to submit a Business Partner Automation Program Audit Self Certification form, REG 4016 in lieu of a compliance audit. This form is incorporated by reference. This certification is an

alternative to the audit as most of the information can be reviewed during the audit of the first-line service provider.

The top of the form requires the date, name of the responsible business partner representative, his/her title, and business partner name. The body of the letter asks for the company name, date of certification (date the form is signed) and the name of its first-line service provider. The second-line business partner representative checks the box that applies to the company, either certifying that the business partner is in compliance with all the requirements of the BPA contract and regulations or that they are in compliance except for the listed exceptions. Each exception is to be listed on the page or additional pages, if necessary. The printed name of the second-line business partner, the written signature of the representative, and the date the form is signed are required. This information is necessary to authenticate the certification and identify the person signing for a second-line business partner should the certification be questioned. The certification is signed under the penalty of perjury under the laws of the State of California that the information given is true and correct. The signer is therefore acknowledging the consequences of making false statements and understands the importance of furnishing correct information. The signature of the person signing the application and the date that it is signed is necessary to establish a legal basis for holding the second-line business partner accountable for the information provided.

Subdivision (a)(1)(A) requires the second-line business partner to submit a BPA Audit Self Certification form to the BPA Program Administrator and a copy of the form to its first-line service provider and the department's Electronic Oversight Branch at an address provided in Section 225.63(c) of these regulations. These copies are to be submitted at the same time the form is submitted to the department. These copies are required to ensure that the first-line service provide and the department's Audit Branch is kept inform of any audit problems that need to be resolved and to deter fraud.

Subdivision (a)(1)(B) requires the BPA Audit Self Certification form to be submitted when an audit is due as stated in the regulations. This is required as it is an alternative to an audit and thus would be due at the same time.

Subdivision (a)(2) provides a business partner and its independent auditor the approximate time frames when each audit is to be performed and for what time period. By scheduling each audit to be completed within ninety (90) days of each twelve (12) month audit period and requiring a copy of the findings and recommendations to be submitted to the department within sixty (60) days of completion of the audit, the independent auditors will have an adequate sampling of a business partner's work to determine if they are in compliance, minimize and identify misinterpretations of the statutes or regulations and possibly prevent fraud.

Subdivision (a)(3) requires a business partner to select and hire an independent auditor that is licensed as a certified public accountant in good standing in the state where the site is located. As all certified public accountants are required to meet national standards each location site should be the standard in determining the licensing requirement. This is necessary to ensure that only competent experts knowledgeable in the review of records are performing the audits.

Subdivision (a)(4) provides that the independent auditor shall not own or be involved in the operation or overview of any part of a business partner's business (es). This informs a business partner and potential business partners of the requirement to keep the auditor or auditors truly independent in auditing the BPA operations and

encourages the writing of an unbiased findings report. This is necessary to determine security breaches, to minimize fraud while maximizing departmental resources, and meet the mandate of Section 1685(f) of the Vehicle Code.

Subdivision (b) requires the independent auditor to sign a Representative Non-Disclosure Statement form, REG 4028 (NEW 3/2002) that agrees to protect all residence/mailling addresses and other confidential information obtained in the course of an audit. This is required to meet the department's mandate to establish regulations to safeguard privacy and protection of information pursuant to Section 1685(f) of the Vehicle Code, and to minimize fraud and maintain the security of the information in the department's databases and the department's business practices.

Subdivision (b)(1) requires that the Representative Non-Disclosure Statement form be kept with a business partner's business records and available for audit. This is necessary to ensure that a business partner and independent auditors are aware of the responsibilities and legal impact of compliance with information security and confidentiality laws.

Subdivision (b)(2) incorporates the Representative Non-Disclosure Statement form by reference. The form identifies the requestor (business partner) by requiring the company name, physical and mailing address (that includes the street, city, state, and zip code for each address), and the contact person with a contact telephone number. This information is required to properly identify a business partner, site location, a business partner's contact person knowledgeable about the form, and his/her telephone number. This is necessary for auditing purposes.

The form identifies the representative (independent auditor) by the name of the company or individual's name, physical and mailing address (including the street, city, state, and zip code for each address), the contact person who is knowledgeable about the form, and his/her telephone number. This is necessary to meet the department's mandate to ensure adequate oversight and monitoring of business partners as required in Section 1685(f) of the Vehicle Code and the safeguarding of privacy and protection of information pursuant to Section 1685(b)(3) of the Vehicle Code.

The certification under penalty of perjury under the laws of the State of California shall include the city, county and state where the form was signed, the date the form was signed, the signature of the independent auditor, and the printed name and title of the signer. This information is required to authenticate the certification and identify the person signing for a business partner applicant should the application be questioned. The certification is under the penalty of perjury that the information given is true and correct. The signer is therefore acknowledging the consequences of making false statements and understands the importance of furnishing correct information. The signature of the person signing the application and the date that it is signed is necessary to establish a legal basis for holding the applicant accountable for the information provided.

Subdivision (c) requires an independent auditor to provide its business partner with its independent audit report, findings and any suggested corrective action plan or audit response developed by a business partner to the department audit section. The address for the department's audit section is provided. This informs a business partner and its independent auditor of the audit documentation process. This is necessary to determine security breaches, to minimize fraud while maximizing

departmental resources, and to meet the mandate of Section 1685(f) of the Vehicle Code.

Subdivision (c)(1) requires an independent auditor of a second-line business partner to provide the same documentation to the second-line business partner's first-line service provider. The first-line service provider will be responsible to retain and maintain a copy of the audit report and any corrective action plan or audit responses. This is to provide feedback to the first-line service provider that in most cases provides the training for each of its second-line business partners.

Subdivision (d) requires business partners to inform the BPA Program Administrator when an independent auditor is no longer employed by the business partner to perform an audit. This notification must be within seven (7) days of notifying the independent auditor. This informs a business partner, potential business partners and independent auditors of the importance of meeting the auditing requirement and allows the department to efficiently monitor the oversight process. This is necessary to minimize fraud while maximizing departmental resources, and to meet the mandate of Section 1685(f) of the Vehicle Code.

Subdivision (e) requires that a business partner's principal place of business be open to an electronic or manual audit of the records required to be retained during normal business hours, immediately upon request from the department or the department's representative. This is necessary to allow the department to efficiently perform a review of a business partner's operations when its records, complaints, and/or non-compliance with the statute, regulations or contract indicates that a more thorough investigation is required, to meet the mandate of Section 1685(f) of the Vehicle Code.

#### **§225.66. Investigation and Review.**

Subdivision (a) informs a business partner that the State may exercise authority to examine, audit or investigate the business partner's books and records for compliance with Vehicle Code 1685, these regulations and the contract, and that the State's reasonable and actual costs are to be paid by the business partner. It is necessary to provide for a more in-depth audit when there is evidence of non-compliance with the statute, regulations and/or contract, to ensure adequate oversight and monitoring of business partners as required in Section 1685(f) of the Vehicle Code. This subdivision informs business partners that the department will take further action should it discover non-compliance with any civil, criminal or administrative law.

Subdivision (b) authorizes the department to investigate and examine a business partner's activities in the department's oversight capacity to administer the program, even if the BPA contract is terminated, cancelled or expired. It is necessary to provide the procedures for a compliance audit based on evidence of non-compliance with the statute, regulations and/or contract that will ensure adequate oversight and monitoring of business partners as required in Section 1685(f) of the Vehicle Code and any other state law. This regulation would authorize the department to audit at any time under any authority or power under any provision of law. This allows the department to immediately respond to problem situations that may unexpectedly occur when dealing with a business partner.

Subdivision (c) informs business partners of the billing process and the time frame when the payment for cost is due. The list of various expenses the department has identified as reasonable costs is provided in subdivision (c)(1) through (3). This is necessary to provide business partners with the criteria that will be used to identify

costs billed to the business partner, and the time frame that the business partner will have to pay those identified costs or expenses.

**§225.69. Cancellation or Termination of a BPA Contract and Permit.**

Subdivision (a) authorizes a first-line business partner and a first-line service provider to cancel a BPA contract and permit by notifying the BPA Program Administrator in writing no less than thirty (30) days prior to the cancellation. The notification is to be in writing on business partner letterhead and signed by a designee of the business partner and sent by fax, US mail or private courier. A business partner is to inform the BPA Program Administrator no less than thirty (30) days in advance to allow adequate time to redirect resources, and inform various units of a business partner's change in status. This subdivision informs business partners and potential business partners of the procedures to withdraw or cancel from the BPA. This is necessary to allow a business partner the option and the procedures to end its operations prior to the end of a contract.

Subdivision (a)(1) authorizes a second-line business partner to cancel a BPA contract and permit by notifying the BPA Program Administrator in writing no less than thirty (30) days prior to the cancellation. The notification is to be in writing on business partner letterhead and signed by a designee of the business partner and sent by fax, US mail or private courier. A business partner is to inform the BPA Program Administrator no less than thirty (30) days in advance to allow adequate time to redirect resources, and inform various units of a business partner's change in status. This subdivision informs business partners and potential business partners of the procedures to withdraw or cancel from the BPA. This is necessary to allow a business partner the option and the procedures to end its operations prior to the end of a contract.

Subdivision (b) authorizes the department to terminate a contract at any time without notice for any cause listed in Section 225.18 of these regulations. This provides the department with the authority to immediately terminate a business partner that is not following the provisions of the Vehicle Code, the regulations, and the terms of the BPA or EFT contract. This is necessary to minimize fraud and theft and quickly respond to security breaches.

Subdivision (b)(1) prohibits a business partner that has been terminated for cause from submitting a new application until one year after the contract termination date. This allows a business partner to reapply within a reasonable amount of time.

Subdivision (c) authorizes the department to terminate a contract without cause upon thirty (30) days written notification to a business partner. This provides the department with the authority to terminate in a timely manner for what ever reason the department may have to terminate, including closing down the program.

Subdivision (d) requires a business partner to discontinue the use of the department's electronic interface access and the issuance of DMV inventory upon any request from the department and upon the termination, cancellation or expiration of the BPA contract. This informs a business partner that the BPA operations must cease on the date that the contract is terminated or ends or upon the department's request. This is required to minimize fraud and theft or misuse of inventory.

**§225.72. Voluntary Site Closing.**

Subdivision (a) requires a first-line service provider to comply with the specific procedures to close a site location within thirty (30) days of cancellation or expiration of the BPA contract. This is required to provide a timely and efficient closing for both a business partner and the department. This is necessary to ensure that a business partner does not continue to operate until it is out of inventory.

Subdivision (a)(1) requires a first-line service provider to collect all unassigned accountable and controlled inventory from its second-line business partner sites. This is required because a first-line service provider is responsible for all inventory for its second-line business partners and it is optional for a first-line service provider to allow a second-line business partner to order directly from the department. This is necessary to minimize theft and misuse of inventory.

Subdivision (a)(2) requires a first-line service provider to complete a Physical Inventory (Non-DMV Entities) form, ADM175A (Rev. 2/00) by recording the unassigned accountable inventory on the form and signing the form. This is necessary to minimize fraud and theft while maximizing departmental resources.

Subdivision (a)(3) requires a first-line service provider to update the status of its accountable inventory on the BPA Inventory Database system. This is necessary to minimize fraud and theft while maximizing departmental resources.

Subdivision (a)(4) requires a first-line service provider to return the Physical Inventory (Non-DMV Entities) form and all accountable inventory by trackable mail to the department. This is required to ensure that the form and inventory are received from the first-line service provider by the department. This is necessary to minimize fraud and theft.

Subdivision (a)(5) requires a first-line service provider to return all controlled inventory by trackable mail to the department. This is required to ensure that all controlled inventory is received from the first-line service provider by the department. This is necessary to minimize fraud and theft.

Subdivision (a)(6) requires a first-line service provider to return all transactions and supporting documentation by trackable mail to the department. This is required to ensure that the form and inventory are received from the business partner by the department. This is necessary to minimize fraud and theft.

Subdivision (a)(7) requires a first-line service provider to return the permit by trackable mail to the department. This is required to ensure that the form is received from the first-line business partner by the department. This is necessary to minimize fraud and theft.

Subdivision (b) requires a first-line business partner to comply with specific procedures to close a site location within thirty (30) days of cancellation or expiration of the BPA contract. This is required to provide a timely and efficient closing for both a business partner and the department. This is required because a first-line business partner is responsible for all inventory at its first-line business partners' locations. This is necessary to minimize theft and misuse of inventory.

Subdivision (b)(1) requires a first-line business partner to collect all unassigned accountable and controlled inventory from all branch site locations. This is necessary to minimize theft and misuse of inventory.

Subdivision (b)(2) requires a first-line business partner to complete a Physical Inventory (Non-DMV Entities) form, ADM175A (Rev. 2/00) by recording all unassigned

accountable inventory on the form, and signing the form. This is necessary to minimize fraud and theft while maximizing departmental resources.

Subdivision (b)(3) requires a first-line business partner to record the status of its accountable inventory on the BPA Inventory Database system. This is necessary to minimize fraud and theft while maximizing departmental resources.

Subdivision (b)(4) requires a first-line business partner to return the Physical Inventory (Non-DMV Entities) form and all accountable inventory by trackable mail to the department. This is necessary to minimize fraud and theft while maximizing departmental resources.

Subdivision (b)(5) requires a first-line business partner to return all controlled inventory by trackable mail. This is necessary to minimize fraud and theft while maximizing departmental resources.

Subdivision (b)(6) requires a first-line business partner to return all transactions and supporting documentation by trackable mail to the department. This is necessary to minimize fraud and theft while maximizing departmental resources.

Subdivision (b)(7) requires a first-line business partner to return the BPA permit by trackable mail to the department. This is necessary to minimize fraud and theft while maximizing departmental resources.

Subdivision (c) requires a second-line business partner and its first-line service provider to comply with the following procedures to close a second-line business partner site location within thirty (30) days of cancellation or expiration of the BPA contract. This is required to provide a timely and efficient closing for both a business partner and the department. This is necessary to ensure that a business partner does not continue to operate until it is out of inventory.

Subdivision (c)(1) requires a second-line business partner to collect all unassigned accountable and controlled inventory and return it to its first-line service provider within seven (7) days of the cancellation or expiration of the BPA contract. This is necessary to minimize fraud and theft while maximizing departmental resources.

Subdivision (c)(2) allows first-line service providers to redistribute the unassigned accountable inventory to their other second-line business partners. This is necessary to minimize fraud and theft while maximizing departmental resources.

Subdivision (c)(3) requires a first-line service provider to return all transactions and supporting documentation by trackable mail to the department. This is necessary to minimize fraud and theft while maximizing departmental resources.

Subdivision (c)(4) requires a second-line business partner to return the BPA permit by trackable mail to the department. This is necessary to minimize fraud and theft while maximizing departmental resources.